

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIM. NO. 1:CR-01-0191
	:	1:CR-06-0145
v.	:	1:CR-06-0147
	:	1:CR-06-0203
	:	1:CR-06-0228
	:	
	:	(Rambo, J.)
CLAYTON LEE WAAGNER	:	(Filed Electronically)

MOTION TO CONSOLIDATE CASE FOR PLEA AND SENTENCING

AND NOW, the United States of America, by its undersigned counsel, moves pursuant to Rule 32 of the Federal Rules of Criminal Procedure to Consolidate these Cases for Plea and Sentencing in a single proceeding, and to prepare a pre-sentence report in advance of these proceedings. In support of this Motion the United States alleges as follows:

1. The defendant is charged in five cases with federal firearms and bank robbery offenses. One of these offenses arises in this district. The remaining four offenses have been transferred to this district for guilty plea and sentencing pursuant to Rule 20 of the Federal Rules of Criminal Procedure.

2. These cases have been transferred to this Court for plea and sentencing under the terms of a binding plea agreement under Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure. That binding plea agreement calls for a stipulated sentence of 400 months imprisonment for the defendant, a sentence which would run concurrently with the sentences previously imposed upon the

defendant, sentences which the defendant is currently serving.

3. Given the binding nature of this plea agreement, the parties believe that the interests of justice would best be served if the defendant consented to the preparation of a comprehensive pre-sentence report prior to any court proceedings. Armed with this pre-sentence report the Court could then make a fully informed decision regarding whether to accept the terms of this binding plea agreement and could proceed to guilty plea and sentencing for the defendant in a single court proceeding. Towards that goal the defendant is prepared to submit to a pre-sentence investigation prior to his plea, and agrees to the preparation of a pre-sentence report in advance of a consolidated plea and sentencing proceeding.

4. Accordingly, in order to facilitate this process, the United States and the defendant request that the Court enter an order:

A. Directing the probation office to prepare a pre-sentence report in anticipation of the scheduling of a single consolidated plea and sentencing proceeding in this case;

B. Instructing the United States to provide a comprehensive fact statement relating to these offenses to the probation office to aid that office in the preparation of a report;

C. Instructing the defendant and his counsel to cooperate in the preparation of a pre-sentence report;

D. Setting a schedule for the preparation and dissemination of a report; and

E. Providing for the scheduling of a consolidated plea and sentencing proceeding upon receipt of the final pre-sentence report in this case.

5. Defense counsel concurs in this request to consolidate these proceedings.

WHEREFORE, for the foregoing reasons, the United States requests that the Court order the consolidation of these proceedings, and the preparation of a pre-sentence report in advance of these consolidated court proceedings. For the convenience of the Court a proposed for of order is attached.

Respectfully submitted,

THOMAS A. MARINO  
United States Attorney

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Dated: July 28, 2006

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CERTIFICATE OF CONCURRENCE

The undersigned hereby certifies that he contacted counsel for defendant, to obtain concurrence to the Motion to Consolidate Case for Plea and Sentencing. Defense counsel concurred in this matter.

S/MARTIN C. CARLSON

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion to be competent to serve papers. That on July 28, 2006, he served a true and correct copy of the foregoing

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by electronic means by sending a copy to each of the e-mail addresses stated below:

Addressee: James Wade, Esq.  
100 Chestnut Street  
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s/MARTIN C. CARLSON  
MARTIN C. CARLSON  
FIRST ASSISTANT U.S. ATTORNEY